

NTSB Order No. EA-5230

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 5<sup>th</sup> day of June, 2006

MARION C. BLAKEY,  
Administrator,  
Federal Aviation Administration,  
  
Complainant,  
  
v.  
  
ROBERT CURT HATCH,  
  
Respondent.

Docket SE-17283

Respondent appeals the oral initial decision of Administrative Law Judge Patrick G. Geraghty, issued on June 16, 2005.<sup>1</sup> By that decision, the law judge upheld the Administrator's allegation that respondent violated sections 91.7(a), 91.407(a), 91.405(b), and 91.13(a) of the Federal

7790

Aviation Regulations (FARs),<sup>2</sup> and reduced the 180-day suspension of respondent's private pilot certificate sought by the

---

<sup>2</sup> FAR sections 91.7, 91.13, 91.405, and 91.407, 14 C.F.R. Part 91, state, in relevant part:

**Sec. 91.7 Civil aircraft airworthiness.**

(a) No person may operate a civil aircraft unless it is in an airworthy condition.

\* \* \* \* \*

**Sec. 91.13 Careless or reckless operation.**

(a) Aircraft operations for the purpose of air navigation. No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

\* \* \* \* \*

**Sec. 91.405 Maintenance required.**

Each owner or operator of an aircraft—

\* \* \* \* \*

(b) Shall ensure that maintenance personnel make appropriate entries in the aircraft maintenance records indicating the aircraft has been approved for return to service;

\* \* \* \* \*

**Sec. 91.407 Operation after maintenance, preventive maintenance, rebuilding, or alteration.**

(a) No person may operate any aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless--

(1) It has been approved for return to service by a person authorized under Sec. 43.7 of this chapter; and

(2) The maintenance record entry required by Sec. 43.9 or Sec. 43.11, as applicable, of this chapter has been made.

\* \* \* \* \*

Administrator to a 150-day suspension.<sup>3</sup> We deny respondent's appeal.

The Administrator's December 20, 2004, complaint alleged:

1. You are now, and at all times herein were, the holder of Private Pilot Certificate No. 040646214.
2. At all times material herein, the type certificate data sheet applicable to civil aircraft N2920C, a Piper, Model PA-28RT-201T (Turbo Arrow IV), states in relevant part: "Engine Limits. For all operations, 2575 r.p.m., 41" Hg. manifold pressure (200hp)."
3. On or about April 12, 2004, you operated as pilot in command civil aircraft N2920C on a passenger carrying flight from Gness Field, Novato, California and landed at Rio Vista Municipal Airport, Rio Vista, California, due to some loss of engine power.
4. At Rio Vista Municipal Airport and in connection with your discussions with the aircraft owner in Colorado, you ran civil aircraft N2920C's engine and found that the manifold pressure was approximately 31 - 35 inches Hg.
5. Notwithstanding the noted loss of manifold pressure, you operated civil aircraft N2920C on a passenger carrying flight from Rio Vista Municipal Airport and landed at Buchanan Field, Concord, California, due to some loss of engine power and some loss of manifold pressure.
6. During your flight from Rio Vista Municipal Airport to Buchanan Field, due to the loss of manifold pressure and/or loss of engine power noted above, you operated civil aircraft N2920C while it was not in an airworthy condition.
7. Your operation of civil aircraft N2920C, in the manner and circumstances described above in paragraphs 3 - 6, was careless or reckless so as to endanger the life or property of another.
8. At Buchanan Field, you requested Sterling Maintenance Sales and Service to check out civil aircraft N2920C, explaining that the aircraft had lost power, lost

---

<sup>3</sup> The Administrator does not appeal the reduction in sanction, or any other aspect of the law judge's ruling.

manifold pressure, and the #2 engine cylinder was cold.

9. Sterling Maintenance Sales and Service initiated a work order for the discrepancies you noted and after preliminarily inspecting the engine noted that the #2 cylinder and turbocharger were not airworthy for return to service.
10. You were aware that a mechanic for the owner of civil aircraft N2920C came to Buchanan Field and that on April 13, 2004, that mechanic removed and replaced the #2 engine cylinder, and it was brought to your attention that the aircraft may have a damaged turbocharger, the engine may lose power, and the manifold pressure may be low.
11. After the #2 engine cylinder was removed and replaced and knowing there was no maintenance record entry approving the aircraft for return to service following the said maintenance, on April 13, 2004, you operated civil aircraft N2920C on a passenger carrying flight from Buchanan Field.
12. On April 13, 2004, shortly after your departure from Buchanan Field, civil aircraft N2920C lost engine power and the flight terminated in an accident on Interstate 680.
13. Incident to said flight on April 13, 2004, from Buchanan Field, you operated civil aircraft N2920C while it was not in an airworthy condition.
14. Incident to said flight on April 13, 2004, from Buchanan Field, you failed to ensure that a maintenance entry had been made for the removal and replacement of the #2 cylinder and that the aircraft had been approved for return to service.
15. Your operation of civil aircraft N2920C, in the manner and circumstances described above in paragraphs 8 - 14, and in disregard of the information available to you, was reckless so as to endanger the life or property of another.

An evidentiary hearing was conducted on June 15, 2005, where percipient witness testimony, including testimony by respondent and the mechanic who performed maintenance on the accident aircraft immediately prior to the accident, was

presented. The Administrator also presented testimony by FAA Aviation Safety Inspector, and pilot, Gary Suozzi, who was accepted as an expert regarding "the duty of care of a pilot with respect to operating airworthy aircraft, and with respect to operating the aircraft after maintenance has been performed on the aircraft." Respondent presented testimony by Monty Taylor, a non-pilot licensed mechanic accepted as an expert regarding aircraft maintenance.

The law judge affirmed all FAR violations alleged by the Administrator. Specifically, the law judge concluded that respondent violated FAR sections 91.7(a) and 91.13(a) in the course of his April 12, 2004, flight from Rio Vista Airport to Buchanan Airfield (Concord, California) (paragraphs 2 through 7 of the complaint), and that respondent violated FAR sections 91.7(a), 91.13(a) (specifically, reckless), 91.405(b), and 91.407(a) in the course of his April 13, 2004, flight from Concord (the accident flight). The law judge reduced respondent's suspension to 150 days on account of mitigating circumstances he perceived regarding respondent's decision to conduct the April 12, 2004, flight.<sup>4</sup>

On appeal, respondent's sole argument is that the law judge erroneously found that respondent *recklessly* operated his

---

<sup>4</sup> Specifically, the law judge cited respondent's lack of knowledge of the extent of the damage to his aircraft before landing in Concord, and respondent's efforts to troubleshoot his aircraft's problems on April 12, 2004, while in contact with the owner of the Fixed Base Operator that leased him the aircraft and on the ground in Rio Vista. We do not reach this aspect of the law judge's decision.

aircraft on April 13, 2004 (the accident flight that departed Concord). Essentially, respondent focuses upon the law judge's recitation of the hearing evidence, and argues that the law judge misconstrued the testimony of a third-party witness (Scott Champion, a flight instructor who, along with his student, had flown the plane carrying the mechanic to Concord) about the timing of a conversation respondent had with the mechanic regarding the damage to his aircraft. Respondent testified that the only time the mechanic discussed the extent of the damage or potential damage to respondent's aircraft engine was during the early stages of the mechanic's work on the aircraft, and the mechanic testified that just prior to respondent's departure from Concord he attempted to explain to respondent the damage to the aircraft engine and the potential for loss of power to the engine. According to respondent, had the law judge not misconstrued Mr. Champion's testimony, he would not have "resolved the conflict in testimony in favor of [the mechanic]." <sup>5</sup>

---

<sup>5</sup> Respondent does not appear to contest the FAR section 91.13(a) violation, per se, but, rather the specific finding by the law judge that respondent was reckless (as opposed to simply careless) in departing Concord on April 13, 2004. More interestingly, we note that respondent presents no argument regarding sanction, which, in light of the disjunctive language of the proscription within FAR section 91.13(a) -- i.e., careless or reckless -- appears to us to be the only reason why any distinction between careless or reckless is relevant to this administrative safety proceeding. Nonetheless, independent of the issue of recklessness (and, indeed, whether respondent intended to actually appeal the FAR section 91.13(a) violation altogether), we have no trouble concluding that respondent's failure on April 13, 2004, to review the maintenance records and make efforts to reasonably assure himself that the aircraft was

We are not persuaded by respondent's contention. Our review of the law judge's decision convinces us that his finding that respondent was reckless was not based upon a credibility assessment against respondent or a precise determination about when respondent was briefed by the mechanic (i.e., while the maintenance was in progress, or after the mechanic "buttoned up" the aircraft just prior to respondent's departure) about the condition of his engine or the consequences to its operation presented by the likely damage to the turbo charger. The Administrator's complaint did not allege that this conversation between respondent and the mechanic occurred at a specific time, and resolution of this factual issue is not necessary to affirm the regulatory violations.<sup>6</sup> Rather, it is clear from the law judge's decision that he based the reckless determination upon

---

(..continued)

safe to fly after the events of the past 24 hours was, at a minimum, careless.

<sup>6</sup> We also note that, independent of any issue of credibility, Mr. Champion himself made it clear that he did not have complete knowledge of certain relevant events. His testimony, therefore, does not support respondent's arguments because they depend upon a precision of recollection by Mr. Champion that Mr. Champion, himself, did not claim. For example, when pressed for details about a conversation between respondent and the mechanic that allegedly took place as respondent and Mr. Champion were looking at the damaged cylinder that had been removed soon after the mechanic had begun working on the aircraft, and relied upon by respondent in his argument on appeal, Mr. Champion testified that, "I mean, honestly, I was really looking at the cylinder, remarking at it, and then trying to concentrate on thinking about my flight student." Hearing Transcript (Tr.) at 74-75. In addition, when asked if he "overhear[d] any conversation between [respondent and the mechanic], Mr. Champion testified that he "may have overheard something that [sic] discussing what had happened ... but I know I left partway and they were still out there." Tr. at 75.

respondent's willful failure to independently ensure, as he was required to do under FAR sections 91.405(b) and 91.407(a), that the aircraft had been satisfactorily repaired, was safe to operate, and had been returned to service, notwithstanding his knowledge that the aircraft had sustained serious damage sometime prior to landing at Concord. See Initial Decision at 337-342.

Nothing in respondent's appeal brief demonstrates, on the basis of record evidence, any reversible error in the law judge's decision.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. Respondent's appeal is denied; and
2. The 150-day suspension of respondent's airman certificate shall begin 30 days after the service date indicated on this opinion and order.<sup>7</sup>

ROSENKER, Acting Chairman, and ENGLEMAN CONNERS, HERSMAN, and HIGGINS, Members of the Board, concurred in the above opinion and order.

---

<sup>7</sup> For the purpose of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. 61.19(g).